

PSJ10 Exh 47

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF OHIO
3 EASTERN DIVISION

- - -

4 IN RE: NATIONAL : HON. DAN A. POLSTER
5 PRESCRIPTION OPIATE :
6 LITIGATION :
7 :
8 APPLIES TO ALL CASES :NO.
9 :1:17-MD-2804

10 - HIGHLY CONFIDENTIAL -
11 SUBJECT TO FURTHER CONFIDENTIALITY REVIEW

- - -

12 December 13, 2018

- - -

13 Videotaped sworn deposition of
14 DAVID A. MYERS, JR., taken pursuant to
15 notice, was held at LIEFF CABRASER
16 HEIMANN & BERNSTEIN, LLP, 250 Hudson
17 Street, 8th Floor, New York, New York,
18 beginning at 9:15 a.m., on the above
19 date, before Margaret M. Reihl, a
20 Registered Professional Reporter,
21 Certified Shorthand Reporter, Certified
22 Realtime Reporter, and Notary Public.

- - -

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1 interrupt you, but we've been going for
2 a while, if now is a good time for a
3 break.

4 MR. MELAMED: If it's okay with
5 you -- with everybody in the room, if we
6 do one more document, pretty quick set
7 of documents. Is that okay?

8 THE WITNESS: I'm okay.

9 MS. MAHONEY: Is that good with
10 you?

11 THE WITNESS: Okay.

12 MR. MELAMED: Then we'll take a
13 break.

14 MS. MAHONEY: Thank you.

15 (Document marked for
16 identification as Myers Deposition
17 Exhibit No. 4.)

18 BY MR. MELAMED:

19 Q. Handing you what's been marked as
20 Exhibit 4. Exhibit 4 is a spreadsheet, several
21 pages printed, it's all at the same Bates number
22 which is Acquired_Actavis_00661681. And the
23 title of the document has been recorded on the
24 bottom of the printed spreadsheet which is

1 "Special Recognition Recipients."

2 Do you recognize this document?

3 A. No.

4 Q. Okay. I just want to draw your
5 attention to page 2, and the page numbers on
6 this is in the center of the bottom of the page,
7 still the same Bates number, 1681.

8 And the top line it says in 2011
9 in the month of August, there's a column for
10 Recipient #2 and you are listed.

11 Do you see your name under
12 Recipient #2?

13 A. I do.

14 Q. And you see that there's an award
15 summary, and it refers to you and others. It
16 says, "For their effort in support of NACDS"?

17 A. Yes.

18 Q. And NACDS stands for National
19 Association of Chain Drug Stores, correct?

20 A. Yes.

21 Q. Can you explain this -- do you
22 recall why you received this award?

23 MS. MAHONEY: Objection.

24 THE WITNESS: Yes.

1 BY MR. MELAMED:

2 Q. You do recall receiving the
3 award, correct?

4 A. Not specifically.

5 Q. Do you understand the reason this
6 -- that you received this award?

7 A. Based on the summary, yes, I
8 would understand.

9 Q. Okay. And what is your
10 understanding of the reason you received this
11 award?

12 A. Once a year we would -- National
13 Association of Chain Drug Stores is another
14 national organization that the company
15 participated and belonged to, and we would go to
16 a -- they call it a trade show, but it's really
17 a meeting driven trade show, where participants,
18 like, for instance, Actavis or Teva would have a
19 trade show booth and you would have appointments
20 with most of your largest customers just to
21 review business.

22 Q. More generally, do you understand
23 the reason for the National Association of Chain
24 Drug Stores existence?

1 MS. MAHONEY: Objection.

2 THE WITNESS: I don't know what
3 their mission statement is, but I assume
4 that they are same thing to -- an
5 organization to deal with, you know,
6 business things that might impact
7 national chain drug stores.

8 BY MR. MELAMED:

9 Q. Do you have an understanding of
10 why Actavis was a member of -- and I'll refer to
11 it as the document does, as the NACDS, is that
12 okay? Do you have any understanding of why
13 Actavis was a member of the NACDS?

14 MS. MAHONEY: Objection.

15 THE WITNESS: Not specifically to
16 NACDS, but we supported the industry.
17 It was customary for all drug companies
18 to support their customers.

19 BY MR. MELAMED:

20 Q. And so the NACDS was made up, at
21 least in part of -- let me withdraw that.

22 The membership of NACDS was made
23 up, at least in part, of Actavis' customers,
24 correct?

1 MS. ZOLNER: Objection, form.

2 THE WITNESS: Let me take a

3 moment to read the --

4 BY MR. MELAMED:

5 Q. Yes.

6 A. (Witness reviews document.)

7 Okay. I'm sorry. Can you repeat
8 your question.

9 Q. Sure.

10 Is it your understanding that the
11 e-mail string, as it moves forward in time, so
12 back to -- towards page 1 of the exhibit,
13 concerns formatting of an ad for fentanyl using
14 the binoculars, in quotes, for Drug Store News?

15 MS. MAHONEY: Objection.

16 THE WITNESS: I believe so.

17 BY MR. MELAMED:

18 Q. Do you know whether that
19 advertisement was ever placed in Drug Store
20 News?

21 A. I don't recall.

22 Q. As you sit here today, do you
23 have any reason to believe that it was not
24 placed in Drug Store News?

1 MS. MAHONEY: Objection.

2 THE WITNESS: I have no reason to
3 believe that it was not, but, as you've
4 seen in the other documents, sometimes
5 we put projects on hold.

6 BY MR. MELAMED:

7 Q. Understood.

8 You can put that document aside.

9 Actavis also marketed and sold
10 generic buprenorphine; is that correct?

11 MS. MAHONEY: Objection.

12 THE WITNESS: Yes.

13 BY MR. MELAMED:

14 Q. And how do you know that?

15 A. I believe that I was either the
16 product manager or involved in perhaps the
17 advertising of that product.

18 Q. Are you aware of any market
19 research Actavis conducted regarding
20 buprenorphine before Actavis launched its
21 generic version of the drug?

22 MS. ZOLNER: Objection.

23 MS. MAHONEY: Objection.

24 THE WITNESS: Can you define

1 "market research"? That's a broad term.

2 BY MR. MELAMED:

3 Q. Sure. Do you know whether
4 Actavis conducted any analysis to consider the
5 potential revenues to be gained from selling
6 generic version of buprenorphine before
7 launching the drug?

8 A. Yes.

9 Q. Do you know who performed that?

10 MS. MAHONEY: Objection.

11 THE WITNESS: I do not.

12 BY MR. MELAMED:

13 Q. You know that buprenorphine is a
14 drug used to treat opioid addiction, correct?

15 A. I believe so.

16 Q. So it is true that at the time
17 Actavis was marketing and selling opioids,
18 including Kadian, fentanyl patch we've
19 discussed, oxycodone, it was also marketing and
20 selling a drug used to treat opioid addiction,
21 correct?

22 MS. MAHONEY: Objection.

23 THE WITNESS: I believe so.

24 (Document marked for

1 identification as Myers Deposition

2 Exhibit No. 12.)

3 BY MR. MELAMED:

4 Q. I'm handing you what's been
5 marked Myers Exhibit 12. Myers Exhibit 12
6 starts with an e-mail from Steve Kane to David
7 Myers and Dorothy -- cc'ing Dorothy McEntee on
8 September 13th, 2010, subject is Re:
9 "buprenorphine advertisement." It contains a
10 series of attachments, and then within the
11 document on page Bates number ending 3147
12 contains another e-mail from David Myers to --
13 addressed to Dorothy and a series of
14 attachments. The entire Bates range of the
15 document is Acquired_Actavis_01373136 through
16 3160.

17 Do you recall this document?

18 A. No.

19 Q. If you turn to -- I want to start
20 with your e-mail, which is on the page with the
21 Bates number ending 3147.

22 A. Okay.

23 Q. And you write that "we'd like to
24 begin development on a new drug we expect to be

1 approved in October", and then you provide
2 details.

3 Do you see that?

4 A. Yes, sir.

5 Q. And the drug was buprenorphine
6 hydrochloride sublingual tablets, correct?

7 A. Yes.

8 Q. Do you recall whether you
9 received approval on or around October 2010 to
10 sell that drug?

11 A. I know we received approval. I
12 don't recall the date.

13 Q. Okay. And you provide other
14 specific information about the drug in the
15 bullets?

16 A. Mm-hmm.

17 Q. And then if you turn to the next
18 page, the paragraph that begins, as usual,
19 provides some guidance about the type of
20 advertisement you would like to see, correct?

21 A. Yes.

22 MS. MAHONEY: Objection.

23 THE WITNESS: Yes.

24 BY MR. MELAMED:

1 Q. In the last sentence you say it,
2 referring to the ad or the imagery -- what does
3 "it" refer to in the last sentence?

4 A. Let me read. (Witness reviews
5 document.)

6 What does "it" refer to is your
7 question?

8 Q. Yes.

9 A. "It" is the advertising concept.

10 Q. Okay. So you write that the
11 concept, the advertising concepts can be
12 indication adjacent and reference the use of the
13 moon in the Zolpidem ad.

14 A. Yes.

15 MS. MAHONEY: Objection.

16 BY MR. MELAMED:

17 Q. Correct?

18 A. Yes.

19 Q. Zolpidem is a sleeping aid; is
20 that correct?

21 A. Yes.

22 Q. And so you note that that ad for
23 zolpidem did not say anything about making you
24 sleep, correct?

1 MS. MAHONEY: Objection.

2 THE WITNESS: I believe it did
3 not.

4 BY MR. MELAMED:

5 Q. According to what you write, you
6 use the moon to be indication adjacent as
7 suggestive of sleep, without saying anything of
8 sleep; is that an accurate summary?

9 MS. ZOLNER: Objection to form.

10 MS. MAHONEY: Objection.

11 THE WITNESS: I think that's an
12 assumption.

13 BY MR. MELAMED:

14 Q. Does that reflect accurately the
15 assumption you think is expressed in your
16 sentence that starts with can be indication
17 adjacent?

18 MS. ZOLNER: Objection, form.

19 THE WITNESS: Possibly, yes.

20 BY MR. MELAMED:

21 Q. Is there any reason for the
22 hesitation, the possibly in that response?

23 A. Only because I know that we've
24 used images and imagery that had nothing to do

1 with what the drug did.

2 Q. But in zolpidem --

3 A. In zolpidem it does say it was
4 indication adjacent.

5 Q. And the moon was used as adjacent
6 to sleep --

7 A. Yes.

8 Q. -- is that correct?

9 A. Yes.

10 MS. MAHONEY: Objection. Please
11 give me an opportunity to object, David.

12 THE WITNESS: Thank you. I'm
13 sorry.

14 BY MR. MELAMED:

15 Q. So the guidance that you were
16 providing to Dorothy was that you could -- she
17 could use an analogy similar to the moon for a
18 sleeping aid for a drug used to treat opioid
19 addiction.

20 Is that your understanding of
21 what you wrote?

22 MS. ZOLNER: Objection to form.

23 MS. MAHONEY: Objection.

24 THE WITNESS: That was my opinion

1 at the time, not a legal or regulatory
2 approved guidance.

3 BY MR. MELAMED:

4 Q. Fair enough. I'm not asking you
5 to speak for legal or regulatory approved,
6 unless I specifically ask you that question.

7 A. Okay.

8 Q. All right. If you could turn
9 back to the second page now. I just want to
10 look at some of these concepts, so the page
11 ending in 3137.

12 The text says "leave the past
13 behind."

14 Do you see that?

15 A. Yes, sir.

16 Q. Do you understand what is meant
17 by "the past" in this sentence?

18 A. I can infer what it means.

19 Q. What is your inference?

20 A. Since this is a drug to help
21 people get off of drug dependence, it's starting
22 anew.

23 Q. Getting off the drug?

24 A. That's what they're proposing,

1 what this ad agency is proposing.

2 Q. Right.

3 And so the proposal is the past
4 is leaving that drug dependence behind?

5 A. That's inferred, yes.

6 Q. Okay. And the sketch appears to
7 be bars of a jail cell, correct?

8 A. Mm-hmm.

9 Q. And those bars have been bent so
10 that somebody has -- the implication being that
11 somebody has escaped; is that right?

12 A. Yes.

13 Q. So the jail cell represented
14 opioid addiction in this drawing; is that
15 correct?

16 MS. ZOLNER: Objection form.

17 MS. MAHONEY: Objection.

18 BY MR. MELAMED:

19 Q. Let me restate that.

20 How do you understand what the
21 jail cell represents in this drawing?

22 MS. ZOLNER: Objection,
23 foundation.

24 THE WITNESS: I believe it could

1 be interpreted that had way, but I did
2 not create the creative.

3 BY MR. MELAMED:

4 Q. I'm asking you for -- to be
5 clear, and your answer was clear on this, I'm
6 asking for your interpretation.

7 So your interpretation is that
8 this drawing, the drawing of the bars represents
9 the addiction and that the fact that the bars
10 are broken and bent in the middle represents an
11 escape from addiction?

12 MS. ZOLNER: Objection to form.

13 MS. MAHONEY: Objection, asked
14 and answered, mischaracterizes the
15 testimony.

16 BY MR. MELAMED:

17 Q. Is that accurate? And if it's
18 not, please tell me.

19 A. That would be my personal
20 impression.

21 Q. If you turn to the next page,
22 3138. It says "Independence day".

23 Do you agree that that appears to
24 be a firework?

1 A. Yes, sir.

2 Q. Okay. And to what do you
3 understand the word independence to be referring
4 to?

5 MS. ZOLNER: Objection,
6 foundation.

7 THE WITNESS: The word
8 independence or Independence day?

9 BY MR. MELAMED:

10 Q. The word independence.

11 A. As it relates to this ad?

12 Q. Yes.

13 MS. MAHONEY: Objection.

14 BY MR. MELAMED:

15 Q. Let me put that differently.
16 Independence from what?

17 MS. MAHONEY: Objection.

18 THE WITNESS: Independence from
19 habits that the user would have, in this
20 case possibly drug addiction.

21 BY MR. MELAMED:

22 Q. This drug was approved for --
23 to -- as a treatment for opioid addiction,
24 correct?

1 A. Yes.

2 Q. So independence from opioid
3 addiction?

4 A. Yes.

5 MS. ZOLNER: Objection to form.

6 MS. MAHONEY: Objection. You
7 really have to give us an opportunity to
8 object, please, David.

9 THE WITNESS: Could you restate
10 your question, please.

11 BY MR. MELAMED:

12 Q. Sure. So your understanding is
13 that independence here meant independence from
14 opioid addiction; is that correct?

15 MS. ZOLNER: Objection,
16 foundation.

17 MS. MAHONEY: Objection.

18 THE WITNESS: I'm assuming so.

19 BY MR. MELAMED:

20 Q. Do you recall discussing any of
21 these ad concepts after they were sent to you?

22 A. No.

23 Q. Turn to the next page, which ends
24 3139.

1 You see the header says "A new
2 start"?

3 A. Yes.

4 Q. Do you have any understanding of
5 what is -- let me withdraw that.

6 Do you have an understanding of
7 what is meant by "A new start"?

8 A. I believe in conjunction with the
9 imagery of a butterfly that it means a rebirth.

10 Q. And does it follow that that
11 rebirth is after leaving opioid addiction
12 behind?

13 MS. ZOLNER: Objection, form.

14 MS. MAHONEY: Objection.

15 THE WITNESS: It's possible,
16 since that was the subject of this ad.

17 BY MR. MELAMED:

18 Q. Is that your interpretation of
19 the drawing?

20 MS. MAHONEY: Objection.

21 THE WITNESS: My personal
22 interpretation.

23 BY MR. MELAMED:

24 Q. Turn to the next page, which ends

1 3140. And it says "Break the ties that bind."

2 And do you agree with me that
3 that appears to be a drawing of a broken chain?

4 A. Yes, sir.

5 Q. Okay. What is your understanding
6 of what "the ties that bind" refer to?

7 MS. MAHONEY: Objection.

8 THE WITNESS: My personal opinion
9 in relationship to this topic is
10 breaking drug addiction.

11 BY MR. MELAMED:

12 Q. And because of this specific
13 product we're talking about, would it be fair to
14 say that it was breaking opioid addiction?

15 MS. ZOLNER: Objection to form.

16 MS. MAHONEY: Objection.

17 THE WITNESS: I believe so.

18 BY MR. MELAMED:

19 Q. And do you understand the
20 drawing, the chain in the drawing to represent
21 opioid addiction?

22 MS. ZOLNER: Objection to form.

23 THE WITNESS: I believe not based
24 on the drawing of the chain, I believe

1 based on the indication for the drug
2 that's being proposed here.

3 BY MR. MELAMED:

4 Q. So based on the indication of the
5 drug, combined with the drawing, your
6 understanding is that the -- that chain
7 represents opioid addiction?

8 MS. ZOLNER: Objection.

9 BY MR. MELAMED:

10 Q. Is that accurate?

11 MS. ZOLNER: Objection, form.

12 MS. MAHONEY: Objection.

13 THE WITNESS: Yes, I believe so.

14 BY MR. MELAMED:

15 Q. And that the drug being
16 advertised will help break that chain of
17 addiction?

18 MS. ZOLNER: Objection, form.

19 THE WITNESS: I believe that is
20 what the artist is proposing.

21 BY MR. MELAMED:

22 Q. If you turn the page to the
23 drawing on 3141. This says "A bright new path."
24 And it appears to be either a

1 sunrise or a sunset in front of a road and
2 rolling hills.

3 Does that reflect what you see as
4 well?

5 MS. ZOLNER: Objection to form.

6 MS. MAHONEY: Objection.

7 THE WITNESS: Yes.

8 BY MR. MELAMED:

9 Q. How would you describe that
10 drawing?

11 MS. MAHONEY: Objection.

12 THE WITNESS: It looks like a
13 sunrise or sunset towards the horizon.

14 BY MR. MELAMED:

15 Q. And the header says "A bright new
16 path."

17 You see that, correct?

18 A. Yes.

19 Q. Is your understanding of that
20 bright new path that it leaves a dark, old path
21 behind?

22 MS. ZOLNER: Objection, form.

23 MS. MAHONEY: Objection.

24 THE WITNESS: I believe it means

1 a new direction in your life.

2 BY MR. MELAMED:

3 Q. And you mean -- your
4 understanding that it means a new direction in
5 one's life, what is the -- do you have any
6 understanding of the reason that a new direction
7 was being promoted here?

8 MS. MAHONEY: Objection.

9 THE WITNESS: You can assume,
10 based on -- that this is a proposed
11 advertisement for buprenorphine that it
12 might be to change your life if you
13 happen to be a person who has become
14 addicted.

15 BY MR. MELAMED:

16 Q. And, again, addicted to opioids,
17 correct?

18 MS. MAHONEY: Objection.

19 MS. ZOLNER: Objection.

20 THE WITNESS: I believe that's
21 what the drug is indicated for. I'm not
22 entirely sure.

23 BY MR. MELAMED:

24 Q. Let's skip ahead to the one --

1 the drawing on 3143. You see it says "Finding
2 the way home"?

3 A. Yes.

4 Q. And how would you describe the
5 scene being depicted in that drawing?

6 A. It looks as --

7 MS. MAHONEY: Objection.

8 THE WITNESS: It looks as if a
9 bird has been released from a cage.

10 BY MR. MELAMED:

11 Q. And how would you interpret,
12 given the indication of the drug being
13 advertised, how would you interpret the phrase
14 "finding the way home"? What is meant by that?

15 MS. ZOLNER: Objection, form.

16 THE WITNESS: Being set free from
17 possibly drug addiction, since this is a
18 drug -- a drug that is indicated to help
19 you with addiction.

20 BY MR. MELAMED:

21 Q. And in the drawing, is it your
22 understanding that the bird represents the
23 person being set free from that addiction?

24 MS. MAHONEY: Objection.

1 MS. ZOLNER: Objection.

2 THE WITNESS: Potentially.

3 BY MR. MELAMED:

4 Q. And do you have any understanding
5 of what the cage represents in this -- how would
6 you interpret what the cage represents in this
7 drawing?

8 A. Well, that's my personal opinion.
9 The cage in this might be the cage of addiction,
10 being trapped in addiction.

11 Q. Can you think of any other
12 interpretations, as you sit here?

13 MS. MAHONEY: Objection.

14 MS. ZOLNER: Objection.

15 THE WITNESS: Not necessarily.

16 BY MR. MELAMED:

17 Q. If you turn to the next page,
18 ends 3144, it's the same drawing that we were
19 just looking at, correct?

20 A. Yes.

21 Q. The only difference is the tag
22 line at the top, correct?

23 A. Yes.

24 Q. And it says "Free at last."

1 A. Yes.

2 Q. Do you have any understanding of
3 what was meant by "Free at last"?

4 MS. ZOLNER: Objection.

5 MS. MAHONEY: Objection.

6 THE WITNESS: Similar to the
7 other ads, I would think it would denote
8 a new beginning or a different path.

9 BY MR. MELAMED:

10 Q. Do you understand -- let me
11 withdraw that.

12 Free from what?

13 MS. ZOLNER: Objection.

14 MS. MAHONEY: Objection.

15 MS. ZOLNER: Foundation.

16 THE WITNESS: The inference might
17 be free from drug addiction.

18 BY MR. MELAMED:

19 Q. And you're developing that
20 inference based on the indication of the drug
21 being advertised?

22 A. And the image.

23 MS. ZOLNER: Objection to form.

24 MS. MAHONEY: Objection.

1 THE WITNESS: And the image.

2 BY MR. MELAMED:

3 Q. To just be clear, I know there
4 were objections, I'm not trying to get over
5 those.

6 The -- it was the -- I'll reask
7 my question and I'll state what I think your
8 answer is, and then you guys can object, I'll
9 give you time.

10 The question was you were
11 developing that inference based on the
12 indication of the drug being advertised, and
13 there were objections.

14 And you said "and the image."

15 So your answer was you developed
16 that inference based on the indication of the
17 drug being advertised and the image being
18 represented on this page?

19 A. Yes.

20 MS. MAHONEY: Objection.

21 MS. ZOLNER: Objection to form.

22 THE WITNESS: Yes.

23 BY MR. MELAMED:

24 Q. Turn the page to 3145, and,

1 again, we've seen this drawing before, correct?

2 A. Yes.

3 Q. Okay. The difference is the tag
4 line, which says "Toward a brighter tomorrow,"
5 correct?

6 A. Yes.

7 Q. Given your understanding of the
8 indication for which the drug being
9 advertised -- withdrawn.

10 Given your understanding of the
11 indication of the drug being advertised, how do
12 you interpret "Toward a brighter tomorrow"?

13 MS. ZOLNER: Objection.

14 MS. MAHONEY: Objection.

15 THE WITNESS: A new path away
16 from drug addiction.

17 BY MR. MELAMED:

18 Q. If you turn the page to 3146.
19 Again, we see the same drawing, correct?

20 A. Yes.

21 Q. Okay. And this time it says "A
22 road to freedom."

23 Do you see that?

24 A. Yes.

1 Q. Based on your understanding of
2 the indication of the drug being advertised and
3 the drawing, do you understand "A road to
4 freedom" to mean freedom from opioid addiction?

5 MS. MAHONEY: Objection.

6 THE WITNESS: That is my personal
7 opinion.

8 BY MR. MELAMED:

9 Q. Do you understand buprenorphine
10 to be the road as reflected in this drawing?

11 MS. ZOLNER: Objection.

12 MS. MAHONEY: Objection.

13 THE WITNESS: I don't know that I
14 necessarily see it that way.

15 BY MR. MELAMED:

16 Q. So you don't agree with that one,
17 in contrast to many of the others we've talked
18 about?

19 MS. ZOLNER: Objection to form.

20 MS. MAHONEY: Objection.

21 THE WITNESS: I agree that
22 artwork is subject to the person who is
23 looking at it --
24

1 BY MR. MELAMED:

2 Q. What about in the --

3 A. -- and interpreting it.

4 Q. What about in the text? The text
5 says "A road to freedom." Do you have any
6 understanding of what is meant by the word
7 "road" in that given the context of
8 advertisement -- this potential advertisement?

9 MS. ZOLNER: Objection.

10 MS. MAHONEY: Objection.

11 THE WITNESS: I believe they mean
12 it to be -- to imply that the drug could
13 help you do freedom from -- from drug
14 addiction.

15 BY MR. MELAMED:

16 Q. And then there's I believe one
17 more drawing on 3147. And you see the tag line
18 says "Breaking free"?

19 A. Yes, sir.

20 Q. And then you see that it's
21 accompanied by a drawing, correct?

22 A. Yes.

23 Q. What do you understand that
24 drawing to be depicting?

1 A. It looks as if someone has broken
2 out of a jail and is heading towards a new
3 horizon.

4 Q. Given the context of this
5 advertisement, do you agree that the jail cell
6 represents addiction?

7 MS. ZOLNER: Objection.

8 MS. MAHONEY: Objection.

9 THE WITNESS: I interpret the
10 artist representation to mean it that
11 way, yes.

12 BY MR. MELAMED:

13 Q. And concerning the tag line,
14 "Breaking free," do you understand that to imply
15 that this buprenorphine would help an opioid
16 addicted person break free from their addiction?

17 MS. MAHONEY: Objection.

18 THE WITNESS: Could you please
19 repeat that again.

20 BY MR. MELAMED:

21 Q. Sure.

22 Do you understand the tag line
23 "Breaking free" to imply that buprenorphine
24 would help an opioid addicted person break free

1 from their addiction?

2 MS. ZOLNER: Objection to form.

3 MS. MAHONEY: Objection.

4 THE WITNESS: I believe that is
5 what the artist creative person was
6 trying to make that association.

7 BY MR. MELAMED:

8 Q. And I asked this before, I don't
9 recall your answer, so I apologize for asking
10 again, do you know if any -- if any of these
11 ads -- let me withdraw that.

12 Do you know in any ads based on
13 the concepts reflected in this exhibit, Exhibit
14 12, were ever used in any advertisements put out
15 by Actavis?

16 MS. ZOLNER: Objection, form.

17 THE WITNESS: I believe -- I
18 believe that one of the concepts was
19 used, probably not as is.

20 BY MR. MELAMED:

21 Q. Do you recall which concept was
22 used?

23 A. I don't remember the tag line or
24 the headline. I remember the sun, the horizon

1 --

2 Q. So something like --

3 A. -- being developed.

4 Q. -- the horizon on 3145?

5 A. Yes.

6 Q. Do you recall whether the tag
7 lines were similar to any of the tag lines we
8 just reviewed?

9 MS. MAHONEY: Objection.

10 MS. ZOLNER: Objection, form.

11 THE WITNESS: I don't recall what
12 the tag line was.

13 BY MR. MELAMED:

14 Q. Do you recall where
15 advertisements that used the picture of the sun,
16 horizon were placed?

17 MS. ZOLNER: Objection, form.

18 THE WITNESS: I don't remember a
19 full, comprehensive list.

20 BY MR. MELAMED:

21 Q. Do you recall whether they were
22 targeted towards pharmacies?

23 MS. MAHONEY: Objection.

24 THE WITNESS: Possibly, but I

1 don't recall.

2 BY MR. MELAMED:

3 Q. Do you recall whether they were
4 targeted towards distributors?

5 MS. MAHONEY: Objection.

6 MS. ZOLNER: Objection.

7 THE WITNESS: Possibly.

8 BY MR. MELAMED:

9 Q. By "they" in those questions, you
10 understand I'm talking about ads, correct?

11 A. Yeah.

12 Q. Okay. Do you recall whether they
13 were targeted towards doctors?

14 MS. ZOLNER: Objection.

15 MS. MAHONEY: Objection.

16 THE WITNESS: I don't remember
17 them going to doctors. It is possible.

18 BY MR. MELAMED:

19 Q. Do you recall whether they were
20 placed in publications likely to be read by
21 patients?

22 MS. ZOLNER: Objection.

23 THE WITNESS: That's highly
24 unlikely.

1 MR. MELAMED: Let's go off the
2 record.

3 THE VIDEOGRAPHER: The time is
4 12:19 p.m. We're going off the record.
5 (Luncheon recess.)

6 THE VIDEOGRAPHER: The time is
7 1:07 p.m., and we're back on the record.

8 BY MR. MELAMED:

9 Q. Welcome back. Just looking to
10 see if the doors were closed.

11 A. Thank you.

12 Q. Can you pull back out Exhibit 9,
13 should be in your pile. It starts with an
14 e-mail from Rachelle Galant to you.

15 And we talked about this earlier.
16 Do you recall you testifying that you had
17 received an award for June CY, which was current
18 year or calendar year, 2010?

19 A. Yes.

20 Q. Was there a monetary award
21 associated with that?

22 A. I don't recall.

23 Q. Do you recall whether you ever
24 received monetary rewards -- let me withdraw